

Minutes

CHARLOTTE COUNTY CONSTRUCTION INDUSTRY LICENSING BOARD Administration Center, County Commission Meeting Room #119 18500 Murdock Circle, Port Charlotte, Florida 33948-1094

February 6, 2020 at 6 pm

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A. CALL TO ORDER

Chairman Charles Hackbarth calls meeting to order at 6:00PM

B. PLEDGE OF ALLEGIANCE

C. ROLL CALL

MEMBERS PRESENT:

John Damon
Michael Melton
Edward Toth
Robert Overcash
Charles Hackbarth
Christopher Knight
Michael Ferrara
Louis Greene
Stephen Gardiner

NOT PRESENT:

Staff Present:

Erin-Mullen-Travis, Licensing Manager
Wendy Pacheco, Certified Code Compliance Officer, Licensing Investigator
Ken Garcia, Certified Code Compliance Officer, Licensing Investigator
Jean Stasio, Assistant County Attorney
Ben Bailey- Building Official
Kristin Binns, Administrative Assistant
Robert H Berntsson, Board Attorney

D. OPENING STATEMENT

E. **NEXT MEETING DATE**
March 5, 2020 at 6:00 pm

F. **APPROVAL OF MINUTES**

Michael Melton made motion to approve the minutes from December 2, 2019 meeting, Christopher Knight seconded the motion, all in favor.

G. **SWEARING IN OF ALL THOSE GIVING TESTIMONY**

Kristin Binns administered oath to those who gave testimony

H. **AGENDA CHANGES**

Erin Mullen-Travis announced agenda changes

I. **CITIZENS INPUT - AGENDA ITEMS ONLY**

Citizens appeared and gave testimony:

1. Wayne Zigler
2. Shannon Moore
3. Chris Harris
4. Tina and Dan Macatee
5. Alice Hibbard

J. **EXAMINATION**
NONE

K. **LICENSE REVIEW**

NONE

L. **CONSENT – AFFIDAVITS OF NONCOMPLIANCE FINES**

All matters listed under this item are considered to be routine and action will be accomplished by one motion without separate discussion of each item. If discussion is desired by a member of the Board, that item(s) will be removed from the Consent Agenda and considered separately. **Each case has been assessed with an additional \$10.00 for the cost of recording the lien.**

1. **Brian K Chenault, CIT NO 5611, CIL-19-00574, \$1000.00**

Wendy Pacheco

MOTION: Michael Melton motioned to accept the fines as stated in the Affidavit of Non-Compliance. Stephen Gardiner seconded, and motion was passed unanimously.

M. **CONTESTING CITATIONS**
NONE

N. REINSTATEMENT
NONE

O. OLD BUSINESS
NONE

P. DISCIPLINE CASES

1. **MARK SOUTHWICK**
RHINO CUSTOM HOMES LLC.
Certified General Contractor,
License No. CGC1510812
CIL-19-00571

Erin Mullen-Travis

The investigative report was read into the record by, Licensing Manager and Certified Code Compliance Officer, Erin Mullen-Travis Licensing Division. Mark Southwick was present to provide testimony to the Board as well as the below listed homeowners appeared that were directly impacted by this case:

1. Donna & John Coons
2. Nancy Hanlon
3. John & Laura Wheeler
4. Nicole Hummel

The Respondent was charged with the following:

CHARGE 1: Charlotte County Code 3-2-47(b) (1) - Any violation of F.S. section 489.129 or section 489.533, whether by a certified, registered or local contractor **(10 counts)**.

CHARGE 2: Charlotte County Code 3-2-47(b)(4) - Willful or deliberate disregard and violation of any lawful order of the board, any provisions of Charlotte County Code, chapter 3-2, chapter 3-9, any provisions of any code adopted pursuant to this chapter, or any state law regulating the construction industry, including Chapter 489 and Part I of Chapter 45 **(10 counts)**.

CHARGE 3: Charlotte County Code 3-2-47(b)(26) - Committing mismanagement or misconduct in the practice of contracting that causes financial harm to a customer. Financial mismanagement or misconduct occurs when:

1. Valid liens have been recorded against the property of a contractor's customer for supplies or services ordered by the contractor for the customer's job; the contractor has received funds from the customer to pay for the supplies or services; and the contractor has not had the liens removed from the property, by payment or by bond, within 75 days after the date of such liens **(10 counts)**

CHARGE 4: Florida Building Codes 110.3 and 110.5, adopted by Charlotte County Code 3-2-23: The building official upon notification from the permit holder or his or her agent, shall make the following inspections, and shall either release that portion of the construction or shall notify the permit holder or his or her agent of any violations which must be corrected in order to comply with the technical codes. The building official shall determine the timing and sequencing of when

inspections occur and what elements are inspected at each inspection. Additionally, it shall be the duty of the holder of the building permit or their duly authorized agent to notify the building official when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspections of such work that are required by this code **(1 count)**.

CHARGE 5: Charlotte County Code 3-2-47(b)(4) - Willful or deliberate disregard and violation of any lawful order of the board, any provisions of Charlotte County Code, chapter 3-2, chapter 3-9, any provisions of any code adopted pursuant to this chapter, or any state law regulating the construction industry, including Chapter 489 and Part I of Chapter 45 (1 count).

CHARGE 6: Charlotte County Code 3-2-47(b)(20) - Failing to obtain inspections including but not limited to final inspections (1 count). Upon consideration, it is **ORDERED**:

1. The allegations of fact set forth in the Notice of Violation are approved and adopted and incorporated herein by reference as findings of fact.
2. The conclusions of law alleged and set forth in the Notice of Violation are approved and adopted and incorporated herein.

UPON THESE FINDINGS, it is **FURTHER ORDERED**:

That the new permitting privileges of Mark Southwick be suspended until the liens are satisfied by payment or bond and the homes currently under construction and in the issued status have been issued certificates of occupancy. Mr. Southwick shall be allowed to continue construction for those permits that are currently in review or ready to be issued. Mr. Southwick can request that his permit privileges be reinstated once the liens are paid or bonded and the current open permits are issued Certificates of Occupancy. The Licensing Manager and Mr. Southwick will update the Board at the next meeting on March 5, 2020 of the status of the case.

In accordance with Florida Statutes, Chapter 489.131(7)(c)(d), & (e), the disciplined contractor, the complainant, or the Department of Business and Professional Regulation may challenge the local jurisdiction enforcement body's recommended penalty for Board action to the State Construction Industry Licensing Board. A challenge shall be filed within sixty (60) days of the issuance of the recommended penalty to the State Construction Industry Licensing Board in Tallahassee, Florida.

MOTION: Michael Melton made the motion to accept the staffs' amended recommendation, Motion was seconded by Stephen Gardiner, decision was unanimous, motion was passed.

2. **MATTHEW M FOSTER**
Fosters Air Supplies & Technical Service
Certified Air Conditioning Contractor
License No. CAC1818724,
And
Healthier Home Solutions, LLC
Certified Air Conditioning Contractor
License No. CAC1819938
CIL-19-00410

Wendy Pacheco

The staffs recommendation was read into the record by, Certified Code Compliance Officer, Wendy Pacheco Licensing Division. Matthew Foster was not present to provide testimony to the Board.

The Respondent was charged with the following:

CHARGE 1: Florida Building Codes 110.3 and 110.5, adopted by Charlotte County Code 3-2-23: The building official upon notification from the permit holder or his or her agent, shall make the following inspections, and shall either release that portion of the construction or shall notify the permit holder or his or her agent of any violations which must be corrected in order to comply with the technical codes. The building official shall determine the timing and sequencing of when inspections occur and what elements are inspected at each inspection. Additionally, it shall be the duty of the holder of the building permit or their duly authorized agent to notify the building official when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspections of such work that are required by this code **(1 count)**.

CHARGE 2: Charlotte County Code 3-2- 47 (b)(4) - Willful or deliberate disregard and violation of any lawful order of the board, any provisions of Charlotte County Code, chapter 3 2, chapter 3 9, any provisions of any code adopted pursuant to this chapter, or any state law regulating the construction industry, including Chapter 489and Part I of Chapter 455 **(1 count)**.

CHARGE 3: Charlotte County Code 3-2- 47 (b)(20) - Failing to obtain inspections including but not limited to final inspections **(1 count)**.

Upon consideration, it is **ORDERED**:

That Matthew M. Foster be found in violation of the charges as listed in the Notice of Administrative Proceedings for both of his licenses and that his permitting privileges and right to work as a contractor in Charlotte County be **revoked**.

Charlotte County also recommends that a copy of this case along with a copy the Board's order be forwarded to the Department of Business and Professional Regulation and Florida Construction Industry Licensing Board with the recommendation that both State Certified Air Conditioning Contractor Licenses of Mr. Foster be disciplined up to and including suspension or revocation of Mr. Fosters Contractor licenses by the Florida Construction Industry Licensing Board until such time as the permits as shown in the attachment to the Notice of Violation, are obtained, renewed and issued final inspections.

MOTION: Robert Overcash made the motion to accept the staffs' recommendation, Motion was seconded by Michael Ferrara, decision was unanimous, motion was passed.

3. **STANVILLE EASTMOND,
Eastmond Enterprises Inc.
Certified Roofing Contractor,
License No. CCC1329148,**

The staffs recommendation was read into the record by, Certified Code Compliance Officer, Ken Garcia Licensing Division. Stanville Eastmond was not present to provide testimony to the Board.

The Respondent was charged with the following:

CHARGE 1: Florida Building Codes 110.3 and 110.5, adopted by Charlotte County Code 3-2-23: The building official upon notification from the permit holder or his or her agent, shall make the following inspections, and shall either release that portion of the construction or shall notify the permit holder or his or her agent of any violations which must be corrected in order to comply with the technical codes. The building official shall determine the timing and sequencing of when inspections occur and what elements are inspected at each inspection. Additionally, it shall be the duty of the holder of the building permit or their duly authorized agent to notify the building official when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspections of such work that are required by this code **(1 count)**.

CHARGE 2: Charlotte County Code 3-2- 47 (b)(4) - Willful or deliberate disregard and violation of any lawful order of the board, any provisions of Charlotte County Code, chapter 3 2, chapter 3 9, any provisions of any code adopted pursuant to this chapter, or any state law regulating the construction industry, including Chapter 489and Part I of Chapter 455 **(1 count)**.

CHARGE 3: Charlotte County Code 3-2- 47 (b)(20) - Failing to obtain inspections including but not limited to final inspections **(1 count)**.

Upon consideration, it is **ORDERED**:

1. The allegations of fact set forth in the Notice of Violation are approved and adopted and incorporated herein by reference as findings of fact.
2. The conclusions of law alleged and set forth in the Notice of Violation are approved and adopted and incorporated herein.

UPON THESE FINDINGS, it is **FURTHER ORDERED**:

That Stanville Eastmond's permitting privileges and right to work as a roofing contractor in Charlotte County be **revoked**.

It is further ordered that a copy of this case along with a copy the Board's order be forwarded to the Department of Business and Professional Regulation and Florida Construction Industry Licensing Board (FCILB) with the recommendation the FCILB order Mr. Eastmond to renew the permit(s) in a timely manner and obtain final inspections as required by the Florida Building Code. It is also recommended if Mr. Eastmond fails to comply, the FCILB order the State Certified Roofing

Contractor's License(s) of Mr. Eastmond be revoked by the Florida Construction Industry Licensing Board.

MOTION: Michael Ferrara made the motion to accept the staffs' recommendation, Motion was seconded by Christopher Knight, decision was unanimous, motion was passed.

Q. CITIZEN INPUT

The following people appeared to give input:

1. Shannon Moore
2. Arlene Roth
3. Donna King
4. Dan & Nancy Logue
5. Alan Tannenbaum
6. Laura Wheeler
7. Dennis Lawrence

R. REPORT FROM THE LICENSING MANAGER

NONE

S. REPORT FROM THE BUILDING OFFICIAL

Ben Bailey reported that Community Developments numbers are growing. We have hired more Customer Service Representatives and are still currently hiring. Announced that there will be changes to the Florida Building Code at the end of the year.

T. REPORT FROM THE ASSISTANT COUNTY ATTORNEY

NONE

U. BOARD ATTORNEY COMMENTS

NONE


V. REPORT FROM CONSTRUCTION INDUSTRY LICENSING BOARD MEMBERS

NONE

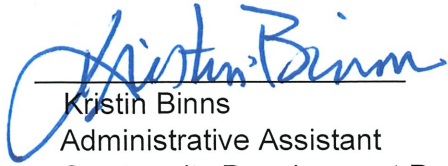
W. ADJOURNMENT

John Damon made the motion to adjourn and Stephen Gardiner seconded the motion and it was approved unanimously at 8:32pm.

CHARLOTTE COUNTY
CONSTRUCTION INDUSTRY LICENSING BOARD
MINUTES OF FEBRUARY 6, 2020
READ AND APPROVED ON MARCH 5, 2020


Charles Hackbarth, Chairman

ATTEST:



Kristin Binns
Administrative Assistant
Community Development Department
Contractor Licensing Division

Complete files of all cases, as well as taped recordings of all proceedings of this meeting, are kept in the Community Development Department and are available to the public.

Any person who decides to appeal a decision of this Board will need a record of the proceedings pertaining thereto, and therefore may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.